

**BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION**

JAMES A. CLARK)	
Claimant)	
VS.)	
)	Docket Nos. 181,301 & 181,310
KOSS CONSTRUCTION COMPANY)	
Respondent)	
AND)	
)	
UNITED STATES FIDELITY & GUARANTY CO.)	
Insurance Carrier)	

ORDER

Claimant appeals from an Award entered by Administrative Law Judge Floyd V. Palmer on August 13, 1997. The Appeals Board heard oral argument February 4, 1998.

APPEARANCES

Roger D. Fincher of Topeka, Kansas, appeared on behalf of claimant. Kristine A. Purvis of Overland Park, Kansas, appeared on behalf of respondent and its insurance carrier.

RECORD AND STIPULATIONS

The Appeals Board has considered the record and adopted the stipulations listed in the Award.

ISSUES

In Docket No. 181,301, claimant alleges he suffered permanent impairment from pulmonary problems caused by exposure to chemicals in the curing compound used for the paving work in claimant's employment.

In Docket No. 181,310, claimant alleges injury to his right knee from climbing on and off the sprayer over a period of several years ending the last day worked, November 15, 1992.

The ALJ found claimant failed to prove, in either case, accidental injury arising out of and in the course of employment. He also found claimant failed to give proper notice of the accidents and failed to make timely written claims. As a result, he denied all benefits.

The issues on appeal are the same in both claims. Specifically, claimant asks the Board to determine the following:

1. Did claimant meet with a series of personal injuries by accident or accidents on or about the dates alleges?
2. Did claimant's alleged accidents arise out of and in the course of his employment?
3. Did claimant give timely notice of his accident pursuant to K.S.A. 44-520 and, if not, was respondent prejudiced by claimant's failure to do so?
4. Did claimant make a timely written claim?
5. Is claimant entitled to future medical treatment?
6. Is claimant entitled to reimbursement for unauthorized medical treatment?
7. Is claimant entitled to temporary total disability benefits from November 15, 1992, through May 15, 1993?
8. What is the nature and extent of claimant's disability, if any?
9. Should respondent be ordered to pay for any treatment to the VA Medical Center if the VA Medical Center seeks reimbursement for any treatment they have previously provided to the claimant?

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record and considering the arguments, the Appeals Board finds the Award by the ALJ should be affirmed. The Board does so for the reasons stated in the findings and conclusions expressed in the Award by the ALJ. The Board hereby approves those findings and conclusions and adopts them as its own. As a result, claimant's application for benefits is denied.

AWARD

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Award entered by Administrative Law Judge Floyd V. Palmer on August 13, 1997, should be, and hereby is, affirmed.

IT IS SO ORDERED.

Dated this ____ day of August 1998.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: Roger D. Fincher, Topeka, KS
Kristine A. Purvis, Overland Park, KS
Office of Administrative Law Judge, Topeka, KS
Philip S. Harness, Director